THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16601 of 2007

14.8.2007

Between:
Kondabathini Harnath, S/o.late Venkataiah

…Petitioner

And

The Mandal Revenue Officer, Bheemadevarapalli Mandal
And others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO
WRIT PETITION No.16601 of 2007

ORDER:

Petitioner along with his father is allegedly joint owner of land admeasuring Acs.4.05 gts in survey No.248/A, Acs.1.10 gts in survey No.239/B1 and Acs.3.08 gts in survey No.248/B/2 situated at Ratnagiri village of Bheemadevarapalli Mandal in Kareemnagar District. The land was allegedly purchased under registered sale deeds dated 26.1.2001. When the second respondent tried to interfere with the land, petitioner filed O.S.No.54 of 2005 on the file of the Court of Junior Civil Judge, Husnabad, for permanent injunction and obtained ad interim injunction in I.A.No.182 of 2005. It is further alleged that when the second respondent filed application for regularization of possession under Section 5A of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity), first respondent initiated enquiry and issued notice in Form-XII under Rule 22(3) of Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity). Aggrieved by the same, the present writ petition is filed.

Learned Counsel for the petitioner submits that when once the suit is pending, first respondent could not have proceeded with the enquiry under Section 5A of the Act. Secondly he submits that along with the counter affidavit filed in I.A.No.182 of 2005, second respondent filed two pahanis and after conducting enquiry, the Mandal Revenue Officer (MRO) sent a report to the Revenue Divisional Officer (RDO) stating that these two pahanis are bogus. In view of this, a submission is made that the second respondent has no manner of right to seek regularization under Section 5A of the Act.

A suit for declaration of better title filed by either of the party to a proceeding before MRO only bars further enquiry. That is what is laid down in Rule 9(1)(c)(ii) of the Rules. Secondly, Section 5A of the Act empowers MRO (now Tahsildar) to regularize any transfer effected otherwise than by transfer in accordance with the procedure contemplated under Section 5A of

the Act as well as Rule 22 of the Rules. This enquiry has nothing to do with the injunction suit. Therefore, in the matter of this nature, when injunction suit is pending, conducting of enquiry by the MRO under Section 5A of the Act is not invalid nor illegal.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

August 14, 2007
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